

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

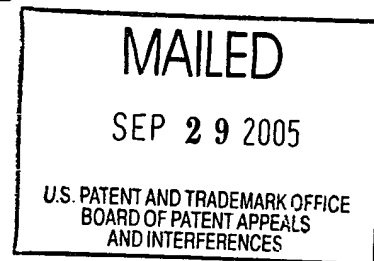
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENGO OCHI
And TAKESHI IKEGAMI

Appeal No. 2005-2693
Application 09/875,369

ON BRIEF



Before KIMLIN, GARRIS and WARREN, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

REMAND TO THE EXAMINER

We remand the application to the examiner for consideration and explanation of issues raised by the record. 37 CFR §1.41.50(a)(1) (September 2004); Manual of Patent Examining Procedure (MPEP) § 1211 (8th ed., Rev. 2, May 2004; 1200-29 – 1200-30).

The record shows that in response to the Order by the Board to provide a translation of Sasahara, the examiner pointed out in the communication mailed May 31, 2005, that the official electronic records of the USPTO for this application contain a translation under "Miscellaneous Incoming Letter dated 10/27/2004." This translation was prepared for the USPTO by The Ralph McElroy Translation Company and dated "October 2004."

A review of appellants' arguments in the brief referring to Sasahara discloses a mismatch between the page/line citations and the October 2004 translation.

We find in the official electronic records of the USPTO for this application under “Specification” and “Claims,” both dated August 13, 2003, a translation of Sasahara prepared by Nozaki & Associates, bearing a certification dated July 7, 2003, that was submitted by appellants with the amendment of that date (page 11). The page/line citations in the brief coincide with this translation.

Accordingly, the examiner is required to take appropriate action consistent with current examining practice and procedure to indicate the translation of Sasahara relied on, and to take any action necessary to clarify the record if the October 2004 translation is relied on, with a view toward placing this application in condition for decision on appeal with respect to the issues presented.

This remand may require the examiner to submit a supplemental examiner’s answer to address matters in the grounds of rejection and appellants’ arguments in the brief. Accordingly, if the examiner submits a supplemental answer in these respects to the Board in response to this remand, “appellant must within two months from the date of the supplemental examiner’s answer exercise one of” the two options set forth in 37 CFR §1.41.50(a)(2) (September 2004), “in order to avoid *sua sponte* dismissal of the appeal as to the claims subject to the rejection for which the Board has remanded the proceeding,” as provided in this rule.

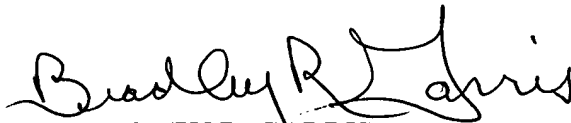
We hereby remand this application to the examiner, via the Office of a Director of the Technology Center, for appropriate action in view of the above comments.

This application, by virtue of its "special" status, requires immediate action. *See* MPEP § 708.01(D) (8th ed., Rev. 2, May 2004; 700-127). It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal in this case. *See, e.g.,* MPEP § 1211 (8th ed., Rev. 2, May 2004; 1200-30).

Remanded



EDWARD C. KIMLIN
Administrative Patent Judge



BRADLEY R. GARRIS
Administrative Patent Judge



CHARLES F. WARREN
Administrative Patent Judge

BOARD OF PATENT
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